functions and modes of operation." Paper No. 20, at page 3, last sentence. In particular, the Examiner alleges that "each method has diverse method steps, utilizes different reagents (i.e., detect different proteins - Group I/one protein, Group II/two proteins, or Group III/four proteins), and measure independent results/outcomes, different functions, or different effects (i.e. Group I/differential diagnosis, Group II/determining brain injury, and Group III/diagnosis)." Paper No. 20, at page 3, lines 10-14. Applicant respectfully traverses.

The inventions of Groups I, II and III are interrelated. Firstly, the methods relate to diagnosing an ischemic or hemorrhagic cerebral event (e.g., brain injury) by analyzing a body fluid of a patient to detect presence and concentration level of marker proteins associated with an ischemic or hemorrhagic cerebral event; comparing the concentration level of the markers proteins to specific threshold values to determine the presence of statistically significant concentrations of the markers; and assessing patient condition in light of the detected markers. The markers to be detected in Groups I, II and III are selected from the same marker proteins, i.e., myelin basic protein (MBP), beta isoform of S100 protein (S100), neuronal specific enolase (NSE), and brain endothelial cell membrane protein). Thus, the inventions of Groups I, II, and III employ the same methods. In addition, the invention of Group I includes embodiments which are also embraced by the invention(s) of Groups II and III. In particular, determining the presence and concentration level of four marker proteins (Group III) embraces determining the presence of one or more marker proteins (Group I) or two or more marker proteins (Group II). As such, the restriction requirement between Groups I, II and III is improper.

Secondly, the Group I claims, the Group II claims and the Group III claims are related to each other as a genus and species. M.P.E.P. §§ 806.04 and 809.02. The claims of Group I entail determining the presence and concentration of one or more marker proteins associated with an ischemic or hemorrhagic cerebral event. The claims of Group II entail determining the presence and concentration of two or more marker proteins associated with an ischemic or hemorrhagic cerebral event. The claims of Group III entail determining the presence and concentration of four marker proteins associated with an ischemic or hemorrhagic cerebral event . Accordingly, Group I is generic to and embraces Group II and Group III. The methods defined in the three groups overlap in the mode of operation and function. As such, the restriction requirement set forth is improper.

In addition, Applicant submits that the examination of Groups I, II and III together would not place an undue burden upon the Examiner. A search of the prior art for the invention of one group would also identify prior art that is applicable to the other two groups. Furthermore, in light of the close relationship of these inventions, a complete search of one invention would necessarily entail a search of the remaining inventions. For example, a search of prior art for the methods defined by Group I would necessarily identify prior art that is applicable to Groups II and III. As such, Applicant submits that no excessive searching burden would be placed upon the Patent Office in examining Groups I, II and III together.

For the foregoing reasons, withdrawal of the restriction requirement is respectfully requested.

Request for Interview

Applicant's Attorney respectfully requests an interview with the Examiner before the mailing of the next Office Action.

Respectfully submitted,

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